

REQUIRES TWO-THIRDS MAJORITY VOTE

(§§ 5, 6)

(Reprinted with amendments adopted on April 22, 2019)

FIRST REPRINT

A.B. 425

ASSEMBLY BILL NO. 425—COMMITTEE
ON GOVERNMENT AFFAIRS

MARCH 25, 2019

Referred to Committee on Government Affairs

SUMMARY—Revises provisions governing fingerprinting services. (BDR 19-945)

FISCAL NOTE: Effect on Local Government: Increases or Newly Provides for Term of Imprisonment in County or City Jail or Detention Facility.
Effect on the State: Yes.

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EXPLANATION – Matter in *bolded italics* is new; matter between brackets ~~omitted material~~ is material to be omitted.

AN ACT relating to public affairs; requiring that fingerprinting services be registered with the Secretary of State; establishing qualifications for registration; requiring the filing of a bond; regulating the business practices of fingerprinting services; authorizing disciplinary action and other remedies in specified circumstances; providing a penalty; and providing other matters properly relating thereto.

Legislative Counsel's Digest:

This bill requires any person that offers fingerprinting services for compensation to register with the Secretary of State and comply with various requirements. **Section 2.7** of this bill defines a “fingerprint technician” as a person, not including a local, state or federal law enforcement agency, that provides services to fingerprint a person for compensation. **Section 4** of this bill defines a “registrant” as the owner of a fingerprint facility or a fingerprint technician registered with the Secretary of State. **Sections 5 and 6** of this bill require any person wishing to engage in the business of providing a fingerprinting service to register with the Secretary of State and renew that registration annually. **Section 5** establishes certain qualifications for registration and provides for the disqualification of any person who has been convicted of certain criminal offenses or has been adjudged to have engaged in certain kinds of misconduct. **Section 5** also provides that a person who provides a fingerprinting service without registering as an owner of a fingerprint facility or a fingerprint technician with the Secretary of State is guilty of a misdemeanor. **Section 7** of this bill requires the Secretary of State to account separately for the fees collected from a registrant.



* A B 4 2 5 R 1 *

Section 8 of this bill requires a registrant to file and maintain with the Secretary of State a cash bond or surety bond to provide a means of indemnifying a client or other person for damage caused by fraud, incompetency or certain other misconduct, or to provide payment to the Secretary of State for any civil penalty or award of attorney's fees or costs made against the registrant.

Sections 9 and 10 of this bill enact provisions relating to court orders for the support of a child against natural persons who apply for registration or a renewal of registration.

Section 12 of this bill requires a registrant to post a notice containing certain information in its place of business. **Section 13** of this bill requires: (1) a registrant required to obtain a state business license to obtain and maintain a state business license; and (2) each registrant to conspicuously display at the registrant's place of business a copy of any state and local business license issued to the registrant.

Sections 17 and 18 of this bill set forth various required and prohibited practices applicable to a registrant. **Section 21** of this bill authorizes the Secretary of State to adopt regulations to carry out the provisions of this bill, and also requires the Secretary of State to take certain actions to facilitate the submission of complaints relating to a registrant. **Section 22** of this bill authorizes the Secretary of State to investigate any suspected violation of the provisions of this bill and take certain actions if such a violation is found. **Section 23** of this bill authorizes the Secretary of State to conduct certain reviews of records required to be maintained by a registrant. **Section 24** of this bill authorizes the Secretary of State to deny, suspend, revoke or refuse to renew a registration under certain circumstances. **Section 27** of this bill provides a private right of action to any person who suffers a pecuniary loss as the result of such a violation.

THE PEOPLE OF THE STATE OF NEVADA, REPRESENTED IN
SENATE AND ASSEMBLY, DO ENACT AS FOLLOWS:

Section 1. Title 19 of NRS is hereby amended by adding thereto a new chapter to consist of the provisions set forth as sections 2 to 27, inclusive, of this act.

Sec. 2. *As used in this chapter, unless the context otherwise requires, the words and terms defined in sections 2.3 to 4, inclusive, of this act have the meanings ascribed to them in those sections.*

Sec. 2.3. *"Fingerprint applicant" means a person who receives a fingerprinting service.*

Sec. 2.5. *"Fingerprint facility" means a commercial facility of a private fingerprinting service at which fingerprinting equipment is contained and where fingerprinting services are rendered.*

Sec. 2.7. *"Fingerprint technician" means a person that provides services to a fingerprint applicant for compensation. The term does not include any local, state or federal law enforcement agency.*

Sec. 3. *"Fingerprinting service" means the act of collecting biometric data in the form of fingerprints.*



1 **Sec. 4.** *“Registrant” means the owner of a fingerprint facility*
2 *or a fingerprint technician registered pursuant to this chapter.*

3 **Sec. 5.** 1. *A person who wishes to engage in the business of*
4 *providing a fingerprinting service must be registered by the*
5 *Secretary of State pursuant to this chapter. An applicant for*
6 *registration must be a citizen or legal resident of the United States*
7 *or hold a valid Employment Authorization Document issued by the*
8 *United States Citizenship and Immigration Services of the*
9 *Department of Homeland Security, and be at least 18 years of age.*

10 2. *The Secretary of State shall conduct a background check*
11 *of each applicant for registration as an owner of a fingerprint*
12 *facility or a fingerprint technician.*

13 3. *The Secretary of State shall not register as an owner of a*
14 *fingerprinting facility or a fingerprint technician any person:*

15 (a) *Whose registration as an owner of a fingerprint facility or*
16 *a fingerprint technician in this State or another state has*
17 *previously been revoked for cause; or*

18 (b) *Who has, within the 10 years immediately preceding the*
19 *date of the application for registration as an owner of a*
20 *fingerprint facility or a fingerprint technician, been:*

21 (1) *Convicted of, or entered a plea of guilty, guilty but*
22 *mentally ill or nolo contendere to, a crime involving theft, fraud or*
23 *dishonesty; or*

24 (2) *Adjudged by the final judgment of any court to have*
25 *committed an act involving theft, fraud or dishonesty.*

26 4. *An application for registration as an owner of a fingerprint*
27 *facility or a fingerprint technician must be made under penalty of*
28 *perjury on a form prescribed by regulation of the Secretary of*
29 *State and must be accompanied by:*

30 (a) *A nonrefundable application fee of \$50; and*

31 (b) *A cash bond or surety bond meeting the requirements of*
32 *section 8 of this act.*

33 5. *An applicant for registration must submit to the Secretary*
34 *of State a declaration under penalty of perjury stating that the*
35 *applicant has not had a certificate or license as an owner of a*
36 *fingerprint facility or a fingerprint technician revoked or*
37 *suspended in this State or any other state or territory of the United*
38 *States.*

39 6. *After the investigation of the history of the applicant is*
40 *completed, the Secretary of State shall issue a certificate of*
41 *registration if the applicant is qualified for registration and has*
42 *complied with the requirements of this section. Each certificate of*
43 *registration must bear the name of the registrant and a*
44 *registration number unique to that registrant. The Secretary of*



1 *State shall maintain a record of the name and registration number*
2 *of each registrant.*

3 *7. An application for registration as an owner of a fingerprint*
4 *facility or a fingerprint technician that is not completed within 120*
5 *days after the date on which the application was submitted must be*
6 *denied. If an application is denied pursuant to this subsection, the*
7 *applicant may submit a new application.*

8 *8. A person who submits an application for registration as a*
9 *fingerprint technician pursuant to this section shall be granted a*
10 *conditional registration until the Secretary of State completes the*
11 *background check for the applicant. As soon as practicable after*
12 *completing the background check, the Secretary of State shall*
13 *issue a certificate of registration to the applicant or deny the*
14 *application. A person who holds a conditional registration as a*
15 *fingerprint technician may be employed at a fingerprint facility*
16 *and perform the functions of a fully registered fingerprint*
17 *technician under the supervision of the owner of the fingerprint*
18 *facility.*

19 *9. Any person who provides a fingerprinting service without*
20 *registering as an owner of a fingerprint facility or a fingerprint*
21 *technician with the Secretary of State is guilty of a misdemeanor.*

22 **Sec. 6.** *1. Except as otherwise provided in subsection 2, the*
23 *registration of an owner of a fingerprint facility or a fingerprint*
24 *technician is valid for 1 year after the date of issuance of the*
25 *certificate of registration, unless the registration is suspended or*
26 *revoked. Except as otherwise provided in this section, the*
27 *registration may be renewed subject to the same conditions as the*
28 *initial registration. An application for renewal must be made*
29 *under penalty of perjury on a form prescribed by regulation of the*
30 *Secretary of State and must be accompanied by:*

31 *(a) A renewal fee of \$25; and*

32 *(b) A cash bond or surety bond meeting the requirements of*
33 *section 8 of this act, unless the bond previously filed by the*
34 *registrant remains on file and in effect.*

35 *2. The registration of a registrant who holds a valid*
36 *Employment Authorization Document issued by the United States*
37 *Citizenship and Immigration Services of the Department of*
38 *Homeland Security must expire on the date on which that person's*
39 *employment authorization expires or 1 year after the date of*
40 *issuance of the certificate of registration, whichever is earlier.*

41 *3. The Secretary of State may:*

42 *(a) Conduct any investigation of a registrant that the Secretary*
43 *of State deems appropriate.*

44 *(b) Require a registrant to submit a complete set of*
45 *fingerprints and written permission authorizing the Secretary of*



1 *State to forward the fingerprints to the Central Repository for*
2 *Nevada Records of Criminal History for submission to the Federal*
3 *Bureau of Investigation for its report.*

4 *4. After any investigation of the history of a registrant is*
5 *completed, unless the Secretary of State elects or is required to*
6 *deny renewal pursuant to this section or section 24 of this act, the*
7 *Secretary of State shall renew the registration if the registrant is*
8 *qualified for registration and has complied with the requirements*
9 *of this section.*

10 **Sec. 7.** *The Secretary of State shall account for the fees*
11 *received pursuant to sections 5 and 6 of this act separately, and*
12 *use those fees, and any interest and income earned on those fees,*
13 *solely to pay for expenses related to administering the*
14 *fingerprinting services program pursuant to this chapter,*
15 *including, without limitation, the cost of:*

16 *1. Materials and advertising to provide education and*
17 *information about the program; and*

18 *2. Any technology necessary to process and maintain*
19 *registration as a fingerprinting service.*

20 **Sec. 8.** *1. A registrant who employs one or more fingerprint*
21 *technicians shall file with the Secretary of State a cash bond or*
22 *surety bond which is approved as to form by the Attorney General*
23 *and conditioned to provide:*

24 *(a) Indemnification to a person who uses the services of the*
25 *fingerprinting service who is determined in an action or*
26 *proceeding to have suffered damage as a result of:*

27 *(1) An act or omission of the registrant, or an agent or*
28 *employee of the registrant, which violates a provision of this*
29 *chapter or a regulation or order adopted or issued pursuant*
30 *thereto;*

31 *(2) The fraud, dishonesty, negligence or other wrongful*
32 *conduct of the registrant or an agent or employee of the*
33 *registrant; or*

34 *(3) An act or omission of the registrant in violation of any*
35 *other federal or state law for which the return of fees, an award of*
36 *damages or the imposition of sanctions have been awarded by a*
37 *court of competent jurisdiction in this State; or*

38 *(b) Payment to the Secretary of State for any civil penalty or*
39 *award of attorney's fees or costs of suit owing and unpaid by the*
40 *registrant to the Secretary of State pursuant to this chapter.*

41 *2. A cash bond or surety bond filed pursuant to subsection 1*
42 *must be in the penal sum of:*

43 *(a) If the registrant employs 1 fingerprint technician, \$25,000;*

44 *(b) If the registrant employs at least 2 but not more than 25*
45 *fingerprint technicians, \$50,000;*



(c) If the registrant employs at least 26 but not more than 75 fingerprint technicians, \$75,000;

(d) If the registrant employs at least 76 but not more than 125 fingerprint technicians, \$100,000;

(e) If the registrant employs at least 126 but not more than 200 fingerprint technicians, \$150,000; or

(f) If the registrant employs more than 200 fingerprint technicians, \$200,000.

3. No part of the bond may be withdrawn while the registration of the registrant remains in effect, or while a proceeding to suspend or revoke the registration is pending.

4. If a surety bond is filed pursuant to subsection 1:

(a) The bond must be executed by the registrant as principal and by a surety company qualified and authorized to do business in this State.

(b) The bond must cover the period of the registration of the registrant, except when the surety is released in accordance with this section.

(c) The surety shall pay any final, nonappealable judgment of a court of this State that has jurisdiction, upon receipt of written notice that the judgment is final.

(d) The bond may be continuous, but regardless of the duration of the bond, the aggregate liability of the surety does not exceed the penal sum of the bond.

(e) If the penal sum of the bond is exhausted, the surety shall give written notice to the Secretary of State and the registrant within 30 days after its exhaustion.

(f) The surety may be released after giving 30 days' written notice to the Secretary of State and the registrant, but the release does not discharge or otherwise affect any claim resulting from an act or omission which is alleged to have occurred while the bond was in effect.

5. Except as otherwise provided in this subsection, if a cash bond is filed pursuant to subsection 1, the Secretary of State may retain the bond until the expiration of 3 years after the date the registrant has ceased to do business, or 3 years after the date of the expiration or revocation of the registration, to ensure that there are no outstanding claims against the bond. A court of competent jurisdiction may order the return of the bond, or any part of the bond, at an earlier date upon evidence satisfactory to the court that there are no outstanding claims against the bond or that the part of the bond retained by the Secretary of State is sufficient to satisfy any outstanding claims. Interest on a cash bond filed pursuant to subsection 1 must accrue to the account of the depositor.



6. A fingerprint technician who becomes employed by a different owner of a fingerprint facility shall submit a new application for registration under the cash bond or surety bond of the new employer of the fingerprint technician to the Secretary of State.

7. The registration of a registrant is suspended by operation of law when the registrant is no longer covered by a bond or the penal sum of the bond is exhausted. If the Secretary of State receives notice pursuant to subsection 4 that the penal sum of a surety bond is exhausted or that the surety is being released, the Secretary of State shall immediately notify the registrant in writing that his or her registration is suspended by operation of law until another bond is filed in the same manner and amount as the former bond.

8. The Secretary of State may reinstate the registration of a registrant whose registration has been suspended pursuant to subsection 7 if, before the current term of the registration expires, the registrant files with the Secretary of State a new bond meeting the requirements of this section.

9. Except as specifically authorized or required by this chapter, a registrant shall not make or cause to be made any oral or written reference to the registrant's compliance with the requirements of this section.

Sec. 9. 1. In addition to any other requirements set forth in this chapter:

(a) A natural person who applies for registration or the renewal of registration as an owner of a fingerprint facility or a fingerprint technician pursuant to section 5 or 6 of this act must include the social security number of the applicant in the application submitted to the Secretary of State.

(b) An applicant described in paragraph (a) shall submit to the Secretary of State the statement prescribed by the Division of Welfare and Supportive Services of the Department of Health and Human Services pursuant to NRS 425.520. The statement must be completed and signed by the applicant.

2. The Secretary of State shall include the statement required pursuant to subsection 1 in:

(a) The application or any other forms that must be submitted for registration or the renewal of registration; or

(b) A separate form prescribed by the Secretary of State.

3. Registration as an owner of a fingerprint facility or a fingerprint technician may not be issued or renewed by the Secretary of State if the applicant:

(a) Fails to submit the statement required pursuant to subsection 1; or



(b) Indicates on the statement submitted pursuant to subsection 1 that the applicant is subject to a court order for the support of a child and is not in compliance with the order or a plan approved by the district attorney or other public agency enforcing the order for the repayment of the amount owed pursuant to the order.

4. If an applicant indicates on the statement submitted pursuant to subsection 1 that the applicant is subject to a court order for the support of a child and is not in compliance with the order or a plan approved by the district attorney or other public agency enforcing the order for the repayment of the amount owed pursuant to the order, the Secretary of State shall advise the applicant to contact the district attorney or other public agency enforcing the order to determine the actions that the applicant may take to satisfy the arrearage.

Sec. 10. 1. If the Secretary of State receives a copy of a court order issued pursuant to NRS 425.540 that provides for the suspension of all professional, occupational and recreational licenses, certificates and permits issued to a natural person who is registered as an owner of a fingerprint facility or a fingerprint technician, the Secretary of State shall deem the registration to be suspended at the end of the 30th day after the date on which the court order was issued unless the Secretary of State receives a letter issued to the registrant by the district attorney or other public agency pursuant to NRS 425.550 stating that the registrant has complied with the subpoena or warrant or has satisfied the arrearage pursuant to NRS 425.560.

2. The Secretary of State shall reinstate a registration of an owner of a fingerprint facility or a fingerprint technician that has been suspended by a district court pursuant to NRS 425.540 if the Secretary of State receives a letter issued by the district attorney or other public agency pursuant to NRS 425.550 to the natural person whose registration was suspended stating that the person whose registration was suspended has complied with the subpoena or warrant or has satisfied the arrearage pursuant to NRS 425.560.

Sec. 11. (Deleted by amendment.)

Sec. 12. Each registrant who owns a fingerprint facility shall display conspicuously in the fingerprint facility a copy of his or her certificate of registration and a written notice that contains the full name of the registrant or, if more than one registrant is providing services at that fingerprint facility, the full name of each such registrant.



Sec. 13. 1. *A registrant required to obtain a state business license issued by the Secretary of State pursuant to chapter 76 of NRS shall:*

(a) Obtain a state business license before offering a fingerprinting service; and

(b) Maintain a state business license during the period of the registrant's registration as a fingerprinting service.

2. *Each registrant shall display conspicuously in the registrant's place of business a copy of:*

(a) The state business license issued to the registrant or the registrant's employer, as applicable, by the Secretary of State pursuant to chapter 76 of NRS; and

(b) Any business license issued to the registrant or the registrant's employer, as applicable, by a local government in this State.

Sec. 14. (Deleted by amendment.)

Sec. 15. (Deleted by amendment.)

Sec. 16. (Deleted by amendment.)

Sec. 17. 1. *A registrant shall take reasonable measures to ensure the confidentiality and security of any personally identifiable information submitted by a fingerprint applicant and safeguard from loss or damage any document provided to the registrant by a fingerprint applicant in connection with services rendered by the registrant.*

2. *Except as otherwise provided in subsection 3, a registrant shall immediately return to a fingerprint applicant any original document provided by the fingerprint applicant:*

(a) Upon the request of the fingerprint applicant; or

(b) If the document is no longer needed for the services rendered by the registrant.

3. *If a copy of any original document provided by a fingerprint applicant is sufficient for the purposes of a legal matter, the registrant shall make or cause to be made a copy of the original document and immediately return the original to such person.*

4. *The duties of a registrant pursuant to this section are not affected by a dispute existing between the registrant and the fingerprint applicant over the fees or costs of the registrant.*

5. *A fingerprint facility must have visible exterior signs at its physical location. The fingerprint facility shall:*

(a) Be secured with an alarm system;

(b) Have cameras located in the lobby, fingerprinting area and any area containing networking equipment;



(c) Include a system of securing equipment used to provide a fingerprinting service and the records of fingerprint applicants; and

(d) Use equipment used to provide a fingerprinting service deemed appropriate for public use by the Federal Bureau of Investigation.

6. As used in this section, “personally identifiable information” means information that can be used to distinguish or trace the identity of a natural person, including, without limitation, the name, social security number, date of birth, place of birth, race, citizenship status and biometric records of such person, alone or when combined with other information related to such person.

Sec. 18. 1. Upon the presentation to a registrant of a written form of authorization signed by a fingerprint applicant, the registrant shall provide a complete copy of such person’s file to an agent or employee of the Secretary of State or the Attorney General, or to an agent or employee of a law enforcement agency, without the necessity of a warrant or subpoena.

2. A registrant shall retain a copy of any document prepared for a fingerprint applicant for not less than 6 months but not more than 1 year after the date of the last service performed for the fingerprint applicant. At the end of that period, unless the fingerprint applicant requests, in writing, that the document be given to the fingerprint applicant, the document must be destroyed by the registrant. Any method of destruction used by a registrant must ensure the complete and confidential destruction of the document.

Sec. 19. (Deleted by amendment.)

Sec. 20. (Deleted by amendment.)

Sec. 21. 1. In addition to the regulations which the Secretary of State is required to adopt pursuant to this chapter, the Secretary of State may adopt any other regulations necessary to carry out the provisions of this chapter.

2. The Secretary of State shall post on the Internet website of the Secretary of State information as to how to make a complaint about a registrant or an alleged violation of this chapter.

Sec. 22. 1. If the Secretary of State obtains information that a provision of this chapter or a regulation or order adopted or issued pursuant thereto has been violated by a registrant or another person, the Secretary of State may conduct or cause to be conducted an investigation of the alleged violation.

2. If, after investigation, the Secretary of State determines that a violation has occurred, the Secretary of State may:



(a) Serve, by certified mail addressed to the person who has committed the violation, a written order directing the person to cease and desist from the conduct constituting the violation and prescribing remedial measures.

(b) If a registrant has committed the same violation three or more times within 1 calendar year, begin proceedings to revoke or suspend the registration of the registrant.

(c) If the violation is criminal in nature, refer the alleged violation to the Attorney General or a district attorney for commencement of a criminal action against the person.

Sec. 23. The Secretary of State may conduct periodic, special or any other examinations of any records required to be maintained pursuant to this chapter or any other provisions of NRS pertaining to the duties of a registrant as the Secretary of State deems necessary to determine whether a violation of this chapter or any other provision of NRS pertaining to the duties of a registrant has occurred.

Sec. 24. 1. The Secretary of State may deny, suspend, revoke or refuse to renew the registration of any person who violates a provision of this chapter or a regulation or order adopted or issued pursuant thereto. Except as otherwise provided in subsection 2, a suspension or revocation may be imposed only after a hearing.

2. The Secretary of State shall immediately revoke the registration of a registrant upon the receipt of an official document or record showing:

(a) The entry of a judgment or conviction; or

(b) The occurrence of any other event,

➔ that would disqualify the registrant from registration pursuant to subsection 3 of section 5 of this act.

Sec. 25. (Deleted by amendment.)

Sec. 26. (Deleted by amendment.)

Sec. 27. Notwithstanding the provisions of sections 22 to 24, inclusive, of this act, any person who suffers a pecuniary loss as a result of a violation of this chapter or a regulation or order adopted or issued pursuant thereto by a registrant or other person may bring an action against that person in any court of competent jurisdiction and may recover the sum of \$500 or twice the amount of the pecuniary loss sustained, whichever is greater. If the court determines that the plaintiff is the prevailing party in an action brought pursuant to this section, the court shall award the plaintiff the costs of suit and reasonable attorney's fees incurred in the action.

Sec. 28. 1. This act becomes effective upon passage and approval for the purpose of adopting regulations and performing any



1 preliminary and administrative tasks necessary to carry out the
2 provisions of this act and on January 1, 2020, for all other purposes.

3 2. Sections 9 and 10 of this act expire by limitation on the date
4 on which the provisions of 42 U.S.C. § 666 requiring each state to
5 establish procedures under which the state has authority to withhold
6 or suspend, or to restrict the use of professional, occupational and
7 recreational licenses of persons who:

8 (a) Have failed to comply with a subpoena or warrant relating to
9 a proceeding to determine the paternity of a child or to establish or
10 enforce an obligation for the support of a child; or

11 (b) Are in arrears in the payment for the support of one or more
12 children,

13 ➤ are repealed by the Congress of the United States.

